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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/709,947	11/10/2000	Brynmor Watkins	MTP-024	3918

21323 7590 11/25/2002

TESTA, HURWITZ & THIBEAULT, LLP
HIGH STREET TOWER
125 HIGH STREET
BOSTON, MA 02110

EXAMINER

HARRIS, ALANA M

ART UNIT	PAPER NUMBER
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1642

DATE MAILED: 11/25/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.



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Please find below a communication from the EXAMINER in charge of this application.

Commissioner of Patents.

The holding abandonment mailed 10-2-02, has been withdrawn.

The copy or original response filed 9-26-02, has been made of record in the file.

The application has been returned to pending status.


Legal Instrument Examiner
Art Unit 1642

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-8, drawn to an isolated breast cancer-associated polypeptide, classified in class 530, subclass 350.
 - ✓ II. Claims 9-14 and 43-47, drawn to a method of diagnosing cancer comprising detecting the presence of a polypeptide, classified in class 435, subclass 7.1.
 - 9 III. Claims 15-20, 41, 42 and 48-55, drawn to a method of diagnosing cancer comprising contacting a sample with a binding moiety, classified in class 436, subclass 512.
 - IV. Claims 21-24, drawn to an isolated binding moiety, classified in class 530, subclass 387.1.
 - V. Claims 25 and 26, drawn to a method of treating cancer comprising administering a binding moiety, classified in class 514, subclass 2.
 - VI. Claims 27-31, drawn to an isolated nucleic acid sequence, classified in class 536, subclass 23.1.
 - VII. Claims 32 and 33, drawn to a method of treating cancer comprising introducing into cells a nucleic acid, classified in class 514, subclass 44.
 - VIII. Claims 34-40 and 56-62, drawn to a method of detecting the presence of breast cancer comprising detecting a nucleic acid molecule, classified in class 435, subclass 6.

2. The inventions are distinct, each from the other because of the following reasons:

Groups I, IV and VI are structurally and functionally different products which are made by different methods and have different uses. The examination of all groups would require different searches in the U.S. Patent Shoes and the scientific literature and would require the consideration of different patentability issues.

The methods of Groups II, III, V, VII and VIII differ in the method objectives, method steps and parameters and in the reagents used. Furthermore, Groups II, III and VIII are *in vitro* diagnostic assays, whereas method groups of inventions V and VII read on *in vivo* processes.

Inventions IV and II, III and V are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the antibody product of Group IV can be used in any of the methods of Groups II, III and V.

Inventions VI and VII and VII are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the nucleic acid of Group VI can be used in either method of Groups VII or VIII.

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3. Groups II, III and VIII drawn to methods detecting polypeptide sequences selected from the group consisting of SEQ ID NO:1-23. Each polypeptide sequence is a structurally different product comprised of different amino acid residues and the examination of more than one sequences would result in an undue search burden on the PTO. **Thus, with the election of any of one of Groups II, III or VII, the applicant is required to select one sequence from the following twenty-three sequences: SEQ ID NO:1-23 for examination.**

4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

5. A telephone call was made to Duncan A. Greenhalgh on March 18, 2002 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement may be traversed (37 CFR 1.143).

6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim

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remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alana M. Harris, Ph.D. whose telephone number is (703) 306-5880. The examiner can normally be reached on 6:30 am to 4:00 pm, with alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Caputa, Ph.D. can be reached on (703) 308-3995. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-4315 for regular communications and (703) 308-4315 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0196.



Alana M. Harris, Ph.D.
March 16, 2002